

**REPORT
OF THE
STUDY GROUP ON
INDUSTRIAL RELATIONS
(Western Region)**



NATIONAL COMMISSION ON LABOUR

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FOREWORD

The National Commission on Labour appointed the Study Group on Industrial Relations for the Western Region comprising Maharashtra, Gujarat and Madhya Pradesh in its attempt to understand the state of industrial relations in that region since Independence. This was one of the four Study Groups set up for building up a picture of industrial relations in different regions. The Study Group was required to analyse available information and project its thinking on typical labour problems in the area taking into account the possible industrial developments in the region.

The views expressed in the report are the views of the Study Group. In examining them for framing its final recommendations, the Commission will attach due importance to these views coming as they do from knowledgeable persons. In the meanwhile, the report is being published by the Commission with a view to seeking comments on it from persons/institutions interested in industrial relations in the region.

The Commission is grateful to the Chairman and Members of the Study Group individually for completing their work within the time-limit fixed for them. The Commission is also grateful to all persons/institutions who may have helped the Study Group in reaching its conclusions.

P. B. Gajendragadkar
Chairman.

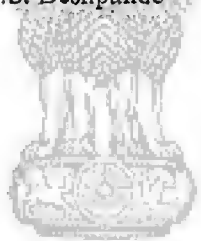
National Commission on Labour,
D-27, South Extension, Part-II,
New Delhi-16.

MEMBERS

1. Dr. K. S. Basu,
University of Bombay,
Jamanlal Bajaj Institute of Management
Studies, 164 Backbay Reclamation
Road No. 3, Bombay-1.
2. Shri K. J. Divatia,
Deputy Chief Executive,
Sarabhai Chemicals, Post Box No. 31,
Wadi Wadi, Baroda.
3. Shri N. S. Deshpande,
General Secretary,
Rashtriya Mill Mazdoor Sangh,
Mazdoor Manzil, G. D. Ambekar Marg,
Parel, Bombay-12.
4. Shri Homi Daji,
Street No. 5, House No. 17,
Snehlatajanj, Indore City.
5. Dr. Paresh M. Majumdar,
Principal, Arts & Commerce College,
Unjha, North Gujarat.
6. Shri S. R. Mohan Das,
2-A, Prospect Chambers,
Dr. D. N. Road, Bombay-1.
7. Shri L. C. Joshi,
Bombay Chamber of Commerce & Industry,
Mackinnon Mackenzie Building,
Ballard Estate, Bombay-1.

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CHAPTER I

INTRODUCTION

By a resolution of the Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. 36/14/66—I & E., dated the 24th of December, 1966 the National Commission on Labour was set up under the Chairmanship of Mr P.B. Gajendragadkar.

By notification No. 3(29)/67—NCL dated the 16th of June 1967, the Study Group for Industrial Relations, Western Region, for areas covered by the States of Maharashtra, Gujarat and Madhya Pradesh, with headquarters in Bombay, was constituted with the following personnel:—

1. Dr. K.S. Basu — Chairman
2. Shri K.J. Divatia—Member
3. Shri N.S. Deshpande—Member
4. Shri Homi Daji—Member
5. Dr. Paresh Majumdar—Member
6. Shri S.R. Mohan Das—Member
7. Shri L.C. Joshi—Member

The Chairman of the Study Group, Dr. K.S. Basu was authorised to nominate the Member-Secretary for the Study Group. Originally the Study Group was required to submit its report and recommendations to the National Commission by the 30th of September 1967. As this was, however, found to be impossible due to various reasons, the reports and recommendations of the Study Group were to be made available to the National Commission on Labour by the 31st of December 1967 or the earliest thereafter.

There were no formal terms of reference laid down for the Study Group. The Chairman of the National Commission, in a circular to all Study Group members, made it clear that the members of all Study Groups, being experienced in their respective fields, were free to make use of the issues raised in the questionnaire and if they felt so, could go beyond the questionnaire as well. Elaborate compilation of data or new enquiries were neither envisaged nor found necessary for the operations of any study groups. It was also realised that no unanimity of views could be easily envisaged, and if unanimity

eluded the study group in its report, points of difference could be specifically spelt out.

The Study Groups were given the fullest freedom to evolve their own line of inquiry and investigations, their own methodology and procedures. The Chairman of the National Commission felt that it would be advisable to have a meeting of the four regional Chairmen of Study Groups for Industrial Relations in the four regions of North, East, South and West, in order to promote liaison and a broad unity of approach among the different regional study groups. This meeting was held in New Delhi on the 12th of August 1967. The Chairman of the Commission, Mr. Gajendragadkar presided over this meeting. Present at this meeting were, Mr. V.K.R. Menon, Chairman of the I.R. Study Group, Northern Region, Mr. P.N. Krishna Pillai, Chairman of the I.R. Study Group, Eastern Region, Mr. N.S. Bhat, Chairman, Southern Region, Mr. S.R. Mohan Das, Member, I.R. Study Group, Western Region, and Mr. B.N. Datar, Member-Secretary, National Commission.

At this meeting, which was informal, the Chairman of the Commission emphasised the importance of the Industrial Relations Study Groups for the work of the Commission. The Chairman referred to the changed political situation with diverse political characteristics of the State Governments, and in such a context, the need for the recommendations of the Commission being acceptable.

On a query raised by Mr. N.S. Bhat regarding the goals of industrial relations, the Chairman suggested that "acceptance of joint Community Responsibility by the participants in industrial relations" could be the broad goal that can be an acceptable guide line for the work of Commission and the Study Groups.

SCOPE, STRATEGY AND METHODS OF INVESTIGATION

The first meeting of the Industrial Relations Study Group, Western Region, was held on the 8th of September 1967 at which all the members excepting Mr. Homi Daji were present. At this meeting it was decided that notwithstanding the expertise of the members of the Study Group, which in itself could make it possible for a report and set of recommendations to be sent to the National Commission, it would be necessary

to conduct investigations through informal interviews of industrial relations at unit and plant levels. Managements, Unions, Labour Administration and Judges of Industrial Courts and Tribunals were to be interviewed. A general opinion was to be elicited from the interviews on the assessment of the nature of industrial relations in a unit or plant in the eyes of the management or labour organizations, the factors, according to them, which they thought contributed to the nature of industrial relations. While dealing with this overall question broadly, the following three areas were to be investigated:—

1. Institutional and organizational instruments of industrial relations i.e. unions, the sections of management responsible for industrial relations and Governmental machinery such as conciliation machinery, adjudication machinery, tripartite bodies as Indian Labour Conference.

2. Issues of industrial relations—collective, individual non-industrial issues affecting industrial relations.

3. Systems and procedures—bipartite negotiations, conciliation and adjudication, the calibre of personnel in the systems.

The following industries and areas were selected for investigation and interviews:—

Textiles, Engineering, Chemicals and Pharmaceuticals, Banks and Insurance, Sugar, Ports and Docks, Airlines. Petroleum, Electricity and Road Transport and Mines, Both public and private sector undertakings were to be covered.

Bombay, Poona, Baroda, Ahmedabad, Nagpur, Bhopal. Indore and Goa were the places intended to be covered.

The Study Group also decided that the above programme of work should be carried out effectively even if it may not be convenient for all the members of the Study Group to be available for all the investigations and interviews. To facilitate this process, a Member-Secretary was appointed and a Vice-Chairman was also appointed by the Group. Mr. S.R. Mohan Das was made the Member-Secretary of the Study Group and Mr. L.C. Joshi, the Vice-Chairman,

Most of the planned investigations and interviews were completed though it was not possible to visit all the centres. The centres visited were Poona, Baroda, and Ahmedabad, in addition to two major interview sessions in Bombay itself. All the industries excepting Sugar, Ports & Docks, Petroleum, Mines and Electricity were covered in the interviews. There has not been any response, communication or participation from Mr. Homi Daji in the work of the Study Group.

The first series of interviews were conducted in Bombay, on the 26th, 27th and 28th of October 1967. The industries investigated were Textiles (Cotton and Silk textiles), Engineering (Automobile, Machine Tools, Metals and Foundry etc.) and Pharmaceuticals. Both management and union representatives were interviewed.

The second series of interviews were conducted in Poona on the 10th and 11th of November 1967 covering Engineering industry, Automobile, Public Sector Pharmaceuticals and Road Transport, and Electrical equipment manufacturing industry. Different union groups operating in the Poona region, managements and Government labour administrators were interviewed.

The third series of interviews were held in Baroda and Ahmedabad on the 2nd, 3rd and 4th of December 1967. Textiles, Chemical and Pharmaceutical, and Engineering industries were investigated in Baroda and Ahmedabad. Unionists were also interviewed.

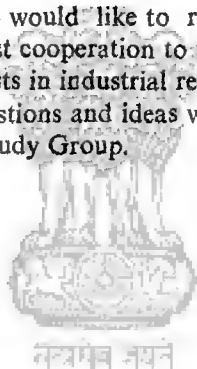
The fourth series of interviews were held in Bombay on the 13th, 14th and 15th of December 1967 and covered Banks (public and private sector), Life Insurance Corporation, Airlines, B.E.S.T.,—managements and unions, the Labour Commissioner's representatives, an ex-Judge of the Industrial Tribunal and a Judge of the Labour Court.

The members of the Study Group have admittedly considerable experience in problems of Industrial Relations; however each member having his specialised experience in one field, either as an operative manager, trade unionist or an analyst. This diversity of specialisation, the Study Group felt, need not necessarily result in irreconcilable differences in the matter of suggesting positive and constructive ideas and methods to deal with problems. To actually ensure this, the Study Group devised the

method of informal interviews with the interested parties undergoing actual experiences in industrial relations. The Study Group envisaged that this practical study through interviews will introduce the members to reality experience in industrial relations.

These interviews provided the members of the Study Group with rich and diverse experiences, and also a wealth of knowledge. The Study Group has two obligations in respect of these interviews. The first is to record the impressions and experiences obtained during the interviews, and the second is to analyse and review the lessons derived from the experiences recited to the group.

The Study Group would like to record happily that the interviewees gave fullest cooperation to the Study Group, irrespective of which interests in industrial relations they represented. Many interesting suggestions and ideas were also placed for consideration before the Study Group.



CHAPTER II

REPORTS OF INTERVIEWS

The interviewees were requested by the Study Group to give their frank views on various problems of industrial relations to assist the Study Group in understanding the reality and make its recommendations. The following problems were specially focussed and the general views of those interviewed are recorded below.

CRITERIA FOR INDUSTRIAL RELATIONS

Two management representatives commented that in their view if there is an identity of goals between labour and management in the plant, that represented good industrial relations. Three other managements stated that in their view good human relations constituted the basis for good industrial relations, and human relations cannot be codified. A union representative stated that unless there were strong union and management institutions, there cannot be effective industrial relations. Similarly, a management representative stated that the criterion for good industrial relations is an efficient and strong management. Another management representative stated that the damage caused by industrial conflict should determine the character of industrial relations.

COLLECTIVE BARGAINING

Except for one management representative, all management representatives favoured direct collective bargaining. The one exception preferred mediation, conciliation etc., instead of direct collective bargaining. In the case of unions, all union representatives favoured direct collective bargaining. An interesting remark by an AITUC union representative was that there should be no sole bargaining agent (union) for collective bargaining.

UNION RECOGNITION

There was almost complete unanimity between management representatives and union representatives on the need for union recognition, though there were sharp differences concerning the criteria for recognition. Management representatives seemed to be uncertain about the criteria

for recognition to be applicable universally. Some stated that unions must have internal leadership only in order to entitle them for recognition. Some preferred industry-wide recognition of unions while some preferred plant-level recognition only. Two managements suggested that unions must become eligible for recognition only after putting in a period of apprenticeship of behaviour and performance before becoming entitled for recognition and the quality factor of their behaviour and performance should be left to the management for judging in the matter of granting recognition or not.

On the question of whether membership verification or secret ballot should be the test for deciding representative unionism and sole bargaining agent, opinions were divided equally between and among management and union representatives. In Baroda and Ahmedabad, the majority of managements favoured membership verification system as it existed today.

In Bombay and Poona interviews, management representatives favoured the secret ballot vote by workers. In the case of unions, all union groups except the I.N.T.U.C. favoured the secret ballot method of determining representative unionism.

The Labour Commissioner of Maharashtra favoured the existing membership verification on the grounds it worked well and recommended that this system be made statutory. A former President of the Industrial Tribunal, now retired, favoured the membership verification and categorically opposed the secret ballot method.

CONCILIATION

An overwhelming majority of management and union representatives were critical of the conciliation machinery. Their main grievances were that the machinery seemed to operate only as a post office and that the calibre of officers had deteriorated considerably. I.N.T.U.C. representatives and one independent industrial union were in favour of conciliation. While the A.I.T.U.C. representatives in Bombay favoured the total scrapping of the conciliation machinery, the Poona AITUC representative was of the opinion that if improvements could be made, conciliation was beneficial and workable.

Labour administrators were in favour of continuing the conciliation machinery. The Labour Commissioner stated that statistically it could be proved that conciliation helped in bringing about more and more agreements.

ADJUDICATION

The management representatives were divided almost equally in their views on adjudication. A majority of unions including an AITUC union and all INTUC unions favoured adjudication. One union representative who strongly opposed adjudication, qualified his opposition with the remark that for sweated labour in the unorganized and unorganizable sector, adjudication should be made available. In the case of AITUC unions, while one union wanted the entire system of adjudication to be scrapped, another wanted direct adjudication bypassing conciliation, and a third AITUC union stated that until unions grew strong, adjudication facility must be available to labour.

While two top labour administrators were in favour of adjudication, a retired well-known President of Industrial Tribunal asserted that adjudication had outlived its utility and must be completely scrapped.

TRIPARTITE MACHINERY

While 4 management representatives were not in favour of the tripartite machinery at all, 3 stated that they found it useful and felt it could be more useful if reconstituted on state-cum-industry levels. While one union representative favoured the existing system—he was opposed to state-cum-industry bodies—the A.I.T.U.C. unions emphatically opposed it. The State Labour administrators were in favour of the machinery.

DISCIPLINE

Some of the comments made by management representatives on this question are worth recording. 5 representatives stated that there was no need for a grievance procedure and with "effective communication between the management and workers or their representatives, disciplinary problems could be solved amicably." One management representative felt that unless a sense of responsibility is inculcated into the employees, grievance machinery will not be useful. A union representative

stated that indiscipline among labour was not as bad or alarming as made out but only approximated the general indiscipline in the society itself. A third interviewee stated that discipline is directly related to the nature of industrial relations existing in a plant. If the relations are good, then discipline is also good. A labour court judge suggested that prior consultations should be there between management and unions, before a decision on dismissal or discharge is taken by the management.

STRIKES

An INTUC representative union in the cotton textile industry under the B.I.R. Act supported strike only as a last resort. A management of a medium size pharmaceutical company commented that they suffered a 65-day irresponsible strike and commented : "Discipline must be taught whichever is the union." Another management of an industrial complex in Poona characterised strikes as disastrous for the union. A trade unionist from Poona stated that the Government should decide its attitude towards legitimacy and justifiability of strikes. When a strong union is at the point of extracting benefits through a strike, Government intervenes by referring the matter to adjudication. Government should decide to what extent they would allow the exercise of legitimate right to strike. Once such limits are decided, there should be no restrictions on the right to strike, and the protection and the sanctity of the right to strike should be incorporated in the laws. No exercise of the right to strike should be condemned or denied because it is wrongly used. Constant confrontation between parties alone would determine the norms and aberrations in industrial relations, he said.

The AITUC representative in Poona said he believed in political strikes also. He stated that often even managements did not mind political strikes on issues in which they also had strong feelings such as regional claims.

A Commissioner of Labour commented that "there should be a friendly control on strike" without spelling out the operative aspects of such "friendly control". He added that the Government machinery should not get "excited" if there is a strike. Intervention of Government officers has been a traditional thing, he said,

A well-known industrial adjudicator stated: "If a union reserves to itself the right to direct action, Government processes should not be made available to such a union. If Government does not intervene, strikes collapse."

A management representative from a public sector undertaking stated that trial of strength through a strike should not be permitted in public utility services.

In addition to commentaries on the above specific questions, there were interesting comments and information made available to the Study Group by the interviewees. Some of them are also worth recording.

The INTUC representative of textile union in Bombay pointed out that over the years it has been able to resolve thousands of problems in the textile industry through direct, bi-partite systems without having to seek the intervention of the Government.

Supporting its strong stand on membership verification as the best method of deciding representative unionism, the INTUC union pointed out that all other unions also operated successfully under the membership verification system and had become representative unions under the B.I.R. Act. This proved that the membership verification system was not advocated merely to obtain special support for the I.N.T.U.C. as such. Under the B.I.R. Act., A.I.T.U.C. and H.M.S. unions had obtained representative character through the membership verification system. As such the advocacy of the membership test by the I.N.T.U.C. was not motivated by any partisan considerations.

The H.M.S. affiliated representative union under the B.I.R. Act in the Silk Textile Industry, however, stated that notwithstanding the privileged position it enjoyed as the statutorily representative union under the B.I.R. Act through the membership test, it would still prefer the secret ballot as the better method. The A.I.T.U.C. affiliated union, similarly placed in the Woollen Textile, also held the same view.

A very important suggestion made by a Judge of a Labour Court was that subjects on trade union and industrial relations should be incorporated in high school and college text books as

a part of the school curriculum because an overwhelming majority of the students will be becoming workers, and without any basic knowledge about trade unionism and industrial relations, they will hardly make any creative contributions as workers in the future trade union movement of a democratic society like India.

The Study Group, in its own comments and views, has benefited from the information and comments it received from the interviewees on all aspects of industrial relations.

The report of the Study Group will be presented in the next pages.



CHAPTER III

REPORT OF THE STUDY GROUP

The Study Group is happy to report that there has been a great measure of agreement among the members on the general goals of creative industrial relations. There have, however, been honest differences of opinion among a section of the Study Group regarding some specific issues. These questions will be outlined in the report.

The Study Group placed the numerous questions of Industrial Relations into three major areas, as outlined in its approach and methodology. These areas are : 1) Nature of organizations in industrial relations, 2) Issues in industrial relations and 3) Systems and procedures in industrial relations.

Though each area will be analysed independently, the inter-relationship between the three areas cannot be lost sight of. In suggesting solutions to problems or making any recommendations, comments etc., the Study Group hopes to project an integrated perspective, even while dealing with each area in sharper focus. There has been no difference among the members of the Study Group over the fact that all comments, suggestions and recommendations are influenced by the goals of industrial relations acknowledged as the promotion and development of creative abilities at all levels.

ATTITUDES TO INDUSTRIAL RELATIONS

Before coming to the examination of each of the areas mentioned above, the attitudes among the constituents in industrial relations to each other, to issues, to the systems and procedures as well as to the goals of industrial relations, showed interesting patterns. Attitudes ranged from feudal-paternalistic perspectives on the one extreme to highly pragmatic and modern on the other, with varying shades in between. This pattern is true for managements as well as unions.

There is increasingly an acceptance of unions among most of the managements in organized sectors of industry, either completely or with some reservations. A paternalistic and feudal acceptance of unions takes the form of managements imposing on unions certain quality norms decided by the

managements on the unions. The pragmatic attitude on the other hand accepts the fact of unionism as it actually emerges and of developing abilities to deal with unions as they actually emerge instead of as managements wish them to be. Pragmatic managements, though they underwent certain amount of strains and stresses in the initial stages, seem to have developed a meaningful and stable relationship with effective dialogue with their unions. In most cases, such managements displayed a confidence about dealing with any type of union, and took the view that management influencing of a union's character through quality prescriptions in advance did not work for any constructive contributions.

Union attitudes also show interesting patterns both towards employers as well as to workers themselves. Especially in the case of non-worker leadership of unions that predominates the Indian situation, union leadership attitudes to workers often reflect and closely correspond to the paternalistic attitude managements or employers display towards workers. Both look upon workers as wards to be protected against "evil influences" from outside. Both look upon workers as incapable of knowing what is good for themselves, and therefore cannot be left to themselves.

Interesting comments were made during the interviews regarding the attitude of the Government in the prevailing national policies on industrial relations. These comments were that existing national policies seemed to be based on a belief that close and constant supervision, guidance and regulation were required in the sphere of employer-employee relations if conflicts in industry are to be avoided. It was pointed out that while to some extent this policy may have served its purpose, it has also brought with it by-products of attitudes, traditions, organizations and methods that were inadequate for positive and creative achievements. The question raised was: "Can any developmental programme of creative achievements be successfully promoted under an assumption that the main participants in industrial relations need to be closely, constantly supervised, guided and regulated?" The question is, whether such an attitude among the policy-makers, however successful it might have been in avoidance of openly manifested forms of conflict such

as strikes, lock-outs etc., can promote positive, dynamic achievements in industrial relations ?

(Note. The expression "Creative" and "creativity" are used in this report to indicate qualities of constructive achievement, qualities of initiative in accepting responsibility in the treatment, management and solution of problems primarily by the two constituent groups in industrial relations. As a contrast, qualities of apathy abandonment of initiative, drift, refusal to accept responsibility for one's share of contribution to problem solving, apportioning blame to everyone else outside for all injustices or problems etc., are considered as opposed to creative achievement.)



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CHAPTER IV

ORGANIZATIONAL FACTORS IN INDUSTRIAL RELATIONS

Industrial Relations divisions of managements, unions, and Governmental machineries dealing with industrial relations represent the three organizational factors that the Study Group has to evaluate in terms of their adequacy, abilities, structure etc. The organizational character and structure of all these three components ought to be such as to promote the maximum amount of constructive achievement as well as equity. If this yardstick of goals is applied, the present situation has considerable scope for improvement.

Management abilities in the sphere of industrial relations have remained untapped in the creative fields not on account of any deliberate constrictions of their initiatives, but because of the easy availability of a third party "presence" to process problems. Under the present conditions, there is very little challenge posed for evoking the best of constructive qualities or initiative for solution of problems. By its easy as well as sometimes compelling availability, the third party auspices for dealing with problems of industrial relations, seems to have inhibited initiative and abilities for positive and constructive solution of problems. Whenever a problem arises in industrial relations, a wide-spread tendency among managements and unions appears to be to take the line of least endeavour, least performance and let the law take its own course. Members of the study group felt that there is a wealth of initiative, talent and constructive ability existing among management and union organizations. Under the present conditions, there seems to have developed among the main parties qualities of apathy, drift, frustration and a sense of non-involvement in problems in the belief that there is an agency to do all these things, and therefore let that agency handle these problems. When both the direct parties in industrial relations take such attitudes, apart from the fact that there is a tendency to raise disputes artificially, when disputes genuinely arise, the pattern of communication and contacts is as follows. Managements get busy

establishing line of contact and communications with the State machinery. Unions resort to the same pattern of behaviour. Very rarely is there the rational pattern of seeking contacts and dialogues between the contending parties themselves. In other words, a habit has developed between the main parties to talk *at* each other before the galleries of the third party instead of talking *to* each other. This has tended to actually plant and fertilise the seeds of class war in spite of all the sincerity in the present policies of conflict-avoidance.

In the matter of public sector managements, the interviews indicated that effective decision-making, delegation and on-the-spot action etc., which are the important qualities of efficient organizations, are very poor if not absent in so far as industrial relations are concerned. This fact was outlined by critics, as well as conceded to a great extent by the representatives of public sector managements themselves. One public sector management representative frankly stated that even statutory provisions had to be by-passed in order to accommodate the political influences that operated in the ownership and management of the industrial complex concerned. It was conceded that some aspects of public sector management policies in the field of industrial relations at times were motivated by goals extraneous to industrial considerations. This tendency to ignore the constructive aspects of industrial relations for extraneous considerations, brought forth protest actions that were equally contorted and often irrelevant to industrial considerations.

The state of trade unions as an organizational factor in industrial relations also reveals a situation that needs vast improvements. The absence of any qualitative standards for unions as organizations, and serious inadequacies of the Indian Trade Unions Act of 1926 enacted more than 40 years ago by the British Indian Government in a social, economic, cultural and industrial context vastly different from the present times, have contributed to extremely poor organisational norms for unions. The problems arising out of inter-union rivalries, intra-union rivalry, union characteristics with obsessions of extraction but no performance have been widely debated and need not be spelt out in the present report. In the later portions of this report, an attempt will be made to provide recommendations to deal with this question.

In the present situation, the Governmental machinery represents the most important factor in industrial relations. The dominating factor of the Government and its machinery is such that even if a certain amount of elbow-room and free inter-play by the main participants in industrial relations is permitted, such inter-play takes place very rarely because the parties are tempted to abandon their initiative to the Government.

In terms of organizational qualities, the Government machinery is undergoing erosion of qualities because of the inability of the governmental machinery to contain, let alone process, the perennial and growingly complex problems of industrial relations. There has been widespread dissatisfaction on the workings of the conciliation machinery, adjudication, wage boards, tripartite bodies. There is strong feeling of disappointment with the present system.

We thus see an unsatisfactory situation in which managements and trade unions have remained ineffective as organizational factors and even the most decisive factor, viz. the State, is also becoming as weak as the other constituents. This weakening of all the three institutional factors in industrial relations is leading to a confused and chaotic situation in industrial relations. Unless strong organizations with quality criteria are actively promoted to emerge in industrial relations and to actively assume their basic role in industrial relations, it will be difficult to bring about constructive changes.

In the view of the Study Group, emphasis must be placed on the promotion of strong, self-reliant and effective organizations. The importance of the organizational factor has not received the serious consideration it deserved upto now. Promotion of effective organizations in industrial relations involves dynamic perspectives, strategy and tactics and the systems and methods to generate strong union and management organizations.

The evolution of strong organizations in industrial relations is possible only through providing for certain qualitative criteria concerning organizations, providing a minimum amount of exclusive and legitimate business for the organizations to exercise their talents and capabilities, and providing

the minimum amount of, but essential, requirements for organic growth and nothing more.

There is almost complete agreement among management representatives, union representatives and members of the Study Group that the quality prescriptions contained in the Indian Trade Unions Act of 1926 are no longer adequate. Since the emergence of trade unions and their growth are influenced by the Indian Trade Unions Act of 1926, this Act needs important revisions.

Before outlining the suggestions of the Study Group on the amendments to the Indian Trade Unions Act of 1926, it will be worthwhile recording here that the Ceylon Government appointed some months ago (December 1965) a Committee of Inquiry into the Law and Practice of the Trade Unions Ordinance in Ceylon. The terms of reference of the Committee were to inquire into and report on the working of the Ordinance and to make recommendations on a number of matters concerned with the administration, control and functioning of unions.

In its inquiries this committee found a situation in Ceylon similar to India in the matter of multiplicity of unions, weak unions. Some of the recommendations made by this committee may be of interest in Indian conditions, because Ceylon is a developing nation like India and Ceylon inherited the same administrative traditions as India from the British. The Committee has recommended among other things that the office of the Registrar of Trade Unions should cease to be combined with that of the Commissioner of Labour. A separate Department of Registrar of Trade Unions has been recommended to be set up. It has also recommended that there should be an audit branch, advisory service for trade unions, a research unit and a workers' education branch. The Registrar should be empowered to suspend the registration of a union in addition to his powers of cancellation : he should also be able to refuse registration to a union with less than 100 members, or 10% of the eligible membership, whichever was less.

Other recommendations are : 1. Officers of trade unions should be drawn from those actually engaged or employed in the industry or occupation with which the union is

connected. It should be made an offence for them not to carry out their duties and obligations.

2. A person should generally be a member of only one trade union and the minimum age for union membership should be reduced to the school leaving age.

3. Membership figures of unions should be audited.

4. The "check-off" system should be introduced if the union and the members desire it.

5. Release by employers of office bearers for full time union work should be encouraged.

It is not proposed that the recommendations by the Ceylon Committee of Inquiry should be applied in India. The Ceylon development is cited to point out that there is an urgent need in Indian conditions to deal with a legislation which has a major impact on the nature of organizational growth of trade unions. The following areas of the Indian Trade Unions Act require changes :—

1. Membership Subscription.
2. Norms concerning non-worker membership in unions for the purposes of holding office in the union.
3. Provisions regarding financial accountability to members as well as public authorities and stricter enforceability.
4. Stricter enforcement of provisions concerning sending of annual returns by unions.

While there was general agreement among members of the Study Group concerning the above areas, there were differences among them concerning some of the detailed provisions of the Act requiring changes. One member of the Study Group felt that unless minimum membership norms were also prescribed for entitlement of a union to become registered, there cannot emerge quality institutions. The other members did not seem to feel that this area was so important.

The other area in which there has been differences among the members of the Study Group is in regard to the role of "non-workers" in a union. Opinions within the Study Group varied from one extreme of banning non-worker membership altogether from unions to another of needing the non-worker members for holding offices in unions for many years to come

with shades in between. Some members were of the view that there can be no objection to non-members provided they were allowed to become only members of the Executive Committee of a union and not office bearers. It was also suggested that their number should be restricted. The member opposing non-workers altogether in a union felt that this is the only method by which worker leadership could be promoted and genuine career opportunities made available for non-workers to serve the trade union movement on a more honest basis. Two members of the Study Group disagreed with this position and based on their own experiences in the trade union movement for many years, felt that non-worker leadership in unions was essential for many years to come, considering the present state of development of the working class in India.

There was a general agreement among the members concerning the other areas mentioned above.

The Ceylon recommendations that the office of the Registrar of Trade Unions should be completely separated from the Labour Commissioner's office and made into an independent administrative entity is worth serious consideration.

Prescription of better standards in the areas of the Indian Trade Unions Act of 1926 will prevent the growth of a large number of mushroom unions many of which have emerged not necessarily for worthwhile organizational purposes, but to exercise a constant veto against any developmental achievements merely to emphasise their presence, without having to earn it. Strengthening unions with greater quality norms will bring about better quality standards among the other constituents of industrial relations as well. The emergence of stronger unions will act as a catalyst for better standards all round.

INDUSTRIAL RELATIONS DEPARTMENTS OF MANAGEMENTS

Just as in the case of unions, this area of institutional factor in management side seems to suffer from various inadequacies. Very few managements have industrial relations divisions on a modern professional basis with rational perspectives, organization and methods. Industrial Relations have become matters of concern to the legal departments of managements than any other branch. Management personnel called upon to deal with industrial relations problems are expected to develop competence not always on constructive

industrial relations, but on litigatory aspects of present day industrial relations. The creative talents of the young people recruited into management cadre for dealing with industrial relations problems are not required and instead the pattern of quality and competence required is primarily on law and litigation. Mastery of industrial case laws, dismissal procedures under various case laws etc., seem to be the prime qualifications required for new entrants to Management ranks in the field of industrial and personnel relations. This has tended to increase conflicts and class war sentiments.

GOVERNMENTAL MACHINERY

The governmental machinery that constitutes the organizational instruments of industrial relations is another area of investigation. The Labour Administration generally, the Conciliation machinery, the Labour Secretariat, Adjudication Machinery, the Tri-partite machinery, the Wage Boards etc., represent some of the major institutional instruments of industrial relations. There can be no denying the fact that these instruments have played a useful role. The real question before the Study Group has, however, been whether these instruments can be adequate enough to meet the challenges of development. It is being found that all these instruments are undergoing severe stresses and strains already. For instance, the instruments of wage boards were set up as better alternatives to adjudication machinery to decide on wage problems. Nearly five years of working of the various wage boards seem to indicate that they have not proved to be better alternatives as envisaged. The significant fact seems to be that the Government instruments that were designed at a particular time to cater to particular dimensions of problems as they were measured at that time, are now found to be very inadequate in changed times and more complex dimensions of problems. The operations of these Governmental machineries are closely interlinked with the operative competence of other organizational factors in industrial relations. This factor has created an anomalous situation in the efficient working of the Governmental instruments. The Governmental machineries such as conciliation, labour administration, adjudication, wage boards, tri-partite machinery etc., can operate efficiently only in a context of efficient contribution and participation by the other

institutional factors of unions and managements. When the governmental machineries were designed two decades ago, they were not understandably enough, designed to supplement or complement the main performance of unions and managements, because the latter were found to be weak. Thus the Governmental machinery, in actual fact, came to supplant or supercede in some instances the main institutions of unions and managements in industrial relations. As this supercession of unions and managements cannot be done for long, the governmental machinery has to face severe strains.

The promotion of unions and managements as institutional instruments of effective industrial relations will be very difficult unless the present role of the Governmental machinery is altered to encourage the non-governmental institutions to perform more and more between themselves. In the present circumstances, the perceivable inadequacy of performance by the Governmental machinery in the spheres of conciliation, adjudication, wage boards, tripartite machinery etc., tends to create conditions of breakdown in the existing machinery.

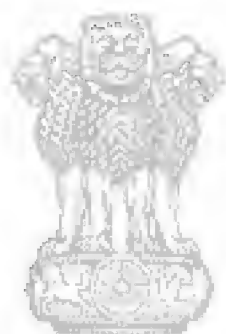
The machinery of the Government also provides temptations in the present political situation to be used as weapons of political play, with no relevance to industrial relations considerations. This is happening at an alarming rate all over the country, seriously politicalising industrial relations problems. In some States, important norms of industrial relations, great achievements etc., all realised after a great deal of sacrifice, suffering etc., have been overnight shattered and Labour administration itself paralysed to promote political requirements. Most of the problems of industrial relations are taking dimensions and complexities that make the present institutional apparatus inadequate; and changes are required. The members of the Study Group are agreed that there is considerable scope for improvement and constructive change. There is also general agreement that the emphasis in initiative and action should shift away from the Governmental machinery to the main constituents in industrial relations, viz., unions and managements. Some members of the Study Group however feel that this shifting of emphasis can only be a slow and cautious process. Others felt that the design and operations of the governmental machinery as

constituted are the causes of inhibiting organizational development at all levels including the governmental machinery itself. They feel that if an instrument has been found to be basically inadequate, mere tinkering with it and renovating it cannot serve the intended purposes. New tools and instruments have to be designed to cater to the needs of industrial relations. On the question of the tripartite machinery, while all are generally agreed that it served a useful purpose in creating a climate for norms and standards, its performance and effectiveness have been slowly becoming unsatisfactory. In terms of organizational qualities, it is felt by some members that the constituents in the tri-partite machinery like the Indian Labour Conference suffer from serious weaknesses. Whether unions, employers or even the Government, the representational capacity of all the three constituents in terms of both commitments as well as performance on behalf of their respective groups has been proved to be very unsatisfactory. As a result, this has made all the endeavours under the auspices of the Indian Labour Conference abstract and not very effective.

To sum up this chapter, there is general agreement among members of the Study Group that the organizational factors in industrial relations, viz., unions and industrial relations divisions of managements must become stronger, self-reliant and more effective. There is also general agreement that the Indian Trade Unions Act of 1926 should be amended. There is agreement that in the areas of prescribing higher membership fee, financial accountability, stricter provisions and enforceability of sanctions regarding annual returns, changes are required to promote responsible and quality unions. There are, however, differences among the members of the Study Group in regard to changes in the Trade Unions Act concerning minimum membership, banning non-workers from membership of and leadership of unions. Two members of the Study Group are opposed to banning non-worker membership and leadership, while three members felt that outsiders should be prohibited from membership and leadership of unions and this will actually enable the outsiders to make a more constructive service to unions in the capacity of advisers while encouraging worker leadership in the trade union movement.

While all the members of the Study Group agreed that

the Governmental machinery was becoming more and more inadequate, two members felt that changes should be gradual. Three members felt that without radical changes in the present design, structure and mandates of the Government machinery, the scope for the growth and strengthening of union and management institutions will be very limited.



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CHAPTER V

ISSUES OF INDUSTRIAL RELATIONS

The major issues involved in the industrial relations process are wages, working conditions, bonus, fringe benefits, leave and amenities, job security, manning, impact of work changes, personnel issues such as discipline issues, promotional opportunities and so on. But a primary issue of industrial relations is that of union recognition and relationship with unions. This primary issue provides the basis of dealing with all other issues in industrial relations.

The various issues have differing dimensions and patterns. These issues represent the basic "natural business" of industrial relations for the parties affected by the issues. In the handling of all these issues and their determination in the matter of their solutions, the industrial relations process is conditioned in all its aspects. The main questions that arise before everyone are: "Should these issues of industrial relations be left entirely free for the two major participants, viz., employers and organized labour to resolve in free and unfettered collective bargaining? Can unfettered collective bargaining be permitted in a developing economy with the State having assumed dominant initiative for development in all spheres? Can we accept collective bargaining in the terminological sense understood in the industrially advanced countries or should we design a process suitable for the special conditions in India? With the present imbalance in institutional strength between employers and labour, can there be meaningful collective bargaining? These are some of the questions raised in the matter of processing the issues of industrial relations.

To the above questions, there have also been posed formidable counter-questions. In the context of two decades of experience, has the dominant initiative of the State in the matter of dealing with issues of industrial relations contributed effectively to development at all levels? In an open and democratic society, is there an alternative to collective bargaining? Can the imbalance between employers and labour be set right, and labour expected to become strong and self-

sufficient by the State taking over the initiative that should have been left to labour for treatment of the issues? Does not development envisage promotion of initiatives and self-reliance among all constituents of society instead of encouraging ever-growing reliance on the State for resolution of problems and issues? Can the treatment and resolution of issues in industrial relations under the initiative of the State bring about satisfactions of achievements through participation among the parties directly involved in industrial relations, even if objectively the issues may have been solved very equitably? Finally, are conditions in India any more "special" than they were in the diverse patterns of development even in the industrially advanced countries that have *all* subscribed to collective bargaining?

The Study Group has been trying to find answers to these questions without a bias in favour of one stance against another. The role of the Government in dealing with the substantive issues of industrial relations will have to be examined in the context of the goals of creative and constructive development. In defining such a role, the Study Group has to be concerned with the fact that all issues in industrial relations will be continuous and will take varied forms. In other words, the substantive issues of industrial relations will be perennial. This being the case, there can never be a "solution for all times to come" over any given issue of industrial relations. There can only be broad norms and guide-lines as the criteria for dealing with the issues. The main point, however, is that the rationale for such criteria and guidelines in dealing with issues of industrial relations should have to be promoted to a maximum extent among the participants in industrial relations, and this is what collective bargaining seeks to achieve in a civilised bi-partite confrontation between management and labour.

A second important point about the resolution of issues in industrial relations is the fact that by and large most of the issues are resolved on the basis of ad hoc solutions. Because of the fact that industrial working is dynamic and ever-changing, there can be very little of immutable solutions for the issues that arise in industrial relations. This being the case, even the most solemnly handed out judicial determination

of issues in industrial relations will have to get reviewed under the pragmatic compulsions of industrial working.

In such realistic circumstances, there is need to reassess more precisely the role of unions, managements and the Government in the matter of processing the issues of industrial relations.

The issues of industrial relations represent the major business of managements and labour organizations to grapple with themselves because it is in getting actively involved in this business of grappling with major and minor issues of industrial relations that greater skills, constructive abilities, better reality perceptions, manpower transformation etc., could ever be built. The major and minor issues of industrial relations have a primary impact on labour and management. The character of the impact will be influenced by who deals with these issues, how they are dealt with, and when are they dealt with.

Management organizations develop skills and competence only when they are actively and directly involved with responsibilities for the consequences of their decisions actions. Only then can they impart creative skills in the matter of how issues should be dealt with and when should they be dealt with.

Likewise, union organizations and the large mass of workers are required to be actively and consciously involved and participating in dealing with the issues that have impact on them. They too develop skills, competence only when they get so involved with responsibilities for the consequences of their decisions and actions. Without a meaningful involvement in the issues of industrial relations and in the treatment of them, only the impact is felt, and only reactions to the impact are projected. The enormous potential available in the issues for promoting creative action can be wasted if no involvement in the treatment of issues by management and labour exists.

This is the central question that emerges in the consideration of the issues of industrial relations. It is not only the solution of an issue in industrial relations that is important, but who solves it, how it is solved and when it is solved are also important questions. In the sequence of

such a logic, is it possible to define the roles of unions, managements and Government?

It has been generally agreed among all members of the Study Group that the major initiative should shift to the main participants. The able performance of the two major textile unions in Bombay and Ahmedabad in this regard represents this process of shifting of initiative to the employers and unions. There have been other instances of such a development. These creative examples, however, are the exceptions in industrial relations rather than the rule. If these exceptions have to be made the rule, the role of Government in the matter of resolving issues in industrial relations obtains a sharper focus.

Members of the Study Group believe that there is a very important role for the State in the field of industrial relations. There is very little difference on this general formulation. Most of the members of the Study Group believe that this important role of the Government lies in its prescribing what constitutes the "fair rules of the game" of industrial relations, and ensuring that the game itself is played by the contesting sides themselves actively. The State plays the role of an umpire in the match, to ensure supervision that the rules of the game are honestly observed and the spirit of the game is promoted. The State itself does not intrude into the game. Competent players and teams can be developed only by promoting widespread practice, and a certain amount of risks and injuries that will be inevitably there, is a part of the game itself.

In the two decades of experience, there seems to have been a great imbalance in the role play for the various parties in the matter of treatment of the issues of industrial relations. While the managements and unions have been left with either marginal roles or wrong roles to play, the major role in determining issues has been in the hands of the State. Statutory provisions have come to stay as the major factors in the treatment of industrial relations. It is necessary to change this imbalance and make the unions and the managements grapple with the issues directly between them. This can only be done by the State playing an entirely different role from the present role.

In the present conditions, the continued weakness of labour and management organizations can be arrested only if the main "business" of industrial relations, viz. the treatment of the issues, goes back to the unions and managements themselves primarily. The present situation has inhibited the growth of creative responsibilities and performance, with all the parties finding it easy to abandon their obligations.

The Statutes, instead of merely prescribing the "rules of the game", have tended to make the State itself conduct the "business" of industrial relations, under its own rules, systems, procedures that are not approximate with the requirements of industrial working. This factor has created a peculiar type of "business" in industrial relations that has proliferated the growth of high priests in industrial case laws who alone are found to be capable of conducting the "business" of industrial relations in the prevailing conditions. This has created problems in manpower transformation. Trade unions are not able to develop personnel for taking over from veterans when there is an attrition in existing manpower among leadership. Managements suffer from paucity of competent and genuinely creative industrial relations personnel.

From the foregoing, it will be seen that issues of industrial relations have to be kept reserved as the major business for labour and management organizations. This means that there has to be active and sometimes compulsive promotion of collective bargaining and bi-partite activities in the treatment of issues, with the State's role reserved only for prescribing the fair rules of the game and enforcing such rules of the game whenever there is a foul.

The present practices have also not helped the development of norms and standards in the determination of issues. On the question of wages, the patterns of wage fixation and development have continued to be confused, creating problems. The Basic Wage and Dearness Allowance systems as separate entities in the wage structure get more and more anomalous and there is only *ad hoc* tinkering with this problem. The case laws on wage determination deal with such norms as industry-cum-region factor as well as the capacity-to-pay factor. Both these norms contain within themselves certain contradictions as well as between them. There

has been no attempt to standardise wages on the basis of occupational norms in a given region. All these factors were mentioned during interviews.

If tribunal and wage board fixation of wages, working conditions, fringe benefits, bonus etc., could be so diverse, the diversity that is envisaged in the collective bargaining process could not possibly be worse.

Collective bargaining, however, has the added advantage of the parties arriving at the determination of issues by their own efforts and being satisfied with it in spite of any diversity in standards.

A major issue of industrial relations that has caused a great deal of trouble is the issue of personnel problems, dealing with discipline questions such as dismissals, discharge etc. The present system of statutory resolution of this area of industrial issues has become impossible of meaningful operations. In this area, the statutory system has recently been strengthened with additional business which can hardly be conducted by the system. The recent amendments to the Industrial Disputes Act enabling individual disputes to be processed directly by the individual without the required espousal from a group of workers or a union represent further removal of "legitimate business" from the hands of labour, unions and managements. Personnel problems amount to a significant 30% of all industrial issues. The statutory foundation for processing this major area of personnel problems is the Industrial Employment (Standing Orders) Act.

The employer representatives displayed strong attitudes on this issue. On all discipline questions, employers took the stand that they should have unfettered freedom to deal with discipline problems. They tended to characterise the present situation as one of chaotic deterioration in discipline on account of Government's policies of "pampering" labour. The employers seemed to be aggrieved that there had always been an "anti-employer bias" in Government labour policies especially in this sphere, and there was therefore a constant undermining of the legitimate authority of the employers.

On the labour side, the attitudes were equally categorical. Notwithstanding all the statutory measures and facilities that were alleged to provide fairness for the worker,

it was alleged that in reality, the statutes operated in a manner of being heavily loaded against workers. The discretionary powers vested in the Government in the administration of labour laws, the limitations to the administrative machinery, the enormous delay etc., have made a mockery of the protection given to labour. Thousands of workers are dismissed or discharged and yet hardly a fractional percentage of such cases ever obtained a reference ultimately to conciliation or labour courts. The cases took anywhere between 2 to 7 years for disposal.

Members of the Study Group asked management representatives their attitudes to the suggestion that disputes concerning dismissals, discharge and individual personnel problems should be altogether taken away from the Statutes and statutory machinery, but made subject to processing under a direct bi-partite system as through a Grievance machinery. Many managements asserted that they already had such a grievance procedure but after questioning, it was found that the major ingredient of the grievance machinery, viz. the right of contesting the management decision on discipline questions either did not exist or was not envisaged by the managements at all. What apparently existed was an ad hoc type of consultation with the union in which labour was permitted to make some representations or petitions, but no contest or questioning of the management decision. Managements which welcome with alacrity bi-partite systems of dealing with issues, became less than lukewarm when it was spelt out to them that a bi-partite Grievance machinery will contain the right of contest of management decisions on discipline matters.

The statutory system has failed to deal with this issue in industrial relations, and this fact has been generally accepted by all members of the Study Group. Evidence of this conclusion is available from the growing number of work stoppages on account of individual personnel problems, arising out of a frustration with the existing cumbersome statutory procedures. Most of the members of the Study Group are inclined to take the view that this set of issues in industrial relations, dealing with individual personnel questions such as dismissals, discharge etc., should be altogether removed from the scope of statutory systems for treatment. As an alternative to the

statutory system of resolving these issues, a bi-partite grievance procedure should be set up with its procedures statutorily fixed, but not the substantive issues. The substantive issues must be made to be treated by the Grievance machinery. This can be done in all industries covered by the Industrial Employment (Standing Orders) Act. The present type of statutory facilities may be made available only in case of sweated industries where organization is not possible. Procedures in the existing system must however be simplified in regard to unorganized industries and labour.

This suggested change will create a more efficient machinery for dealing with personnel problems. It will immediately provide worthwhile business for employees directly at the plant and unit levels. The experience of dealing with this business and processing this business under the proper rules of the game will promote both talents and responsibility as well as discipline. The procedures should prescribe levels, time limits at each levels and finally if there is no solution, provide for the issue to go before arbitration jointly between representative workers or unions and management. Grievance committee will consist of elected workers at the plant levels as in the case of works committees. The thousands of grievance committees operating in the developing countries throw up from ranks of workers fine talents and leadership for an effective and responsible trade union movement. Grievance machinery will represent the most effective apprenticeship programme for labour and management at the plant level where the most dynamic things happen. There is hardly likely to be a worsening of victimisation tendencies among employers if the present statutory system is abolished, because it is an illusion to assume that the present system acts as a deterrent to employers against victimisation. Under the present system, there is really no effective contest at all possible against a determined effort by an employer to dismiss an employee. Even assuming for argument's sake that the present system does deter employers from whimsically victimising workers, this deterrent is at a very heavy price for workers in another area which is not usually perceived by either trade unions or the policy-makers. Fearing the deterrents under the Statutes, employers are encouraged to resort to the tactics of

restructuring their work force to lessen the adverse impact of deterrents against removing employees from service. They do this by designing the work force to consist of a large percentage of temporary and casual workers in whose case the deterrents do not operate at all. Whatever "achievements" the present statutory systems may have achieved in the matter of ensuring job security for permanent employees, they have been at heavy costs in other spheres. Larger and larger number of workers enter the industry with no security of employment in the temporary or casual status and therefore with no stakes or commitments to the industry.

Employers could be encouraged to provide better standards for their labour force, if after conceding in principle the right of disciplinary action, the right of fair contest is given to workers in a bi-partite relationship instead of through the Statutes where the contest becomes distorted and bitter.

Individual personnel issues of dismissals, discharge have another interesting dimension. Processing them imposes what is called the "cost factor" to unions, under the present statutory system. The available resources in money and manpower are so limited for unions and the expense and abilities for processing individual dismissal or discharge cases under the Statutes so high, that even strong unions are tempted to avoid handling such cases. This is the reason perhaps why all the unions agreed with alacrity to the amendment of the I.D. Act that enabled individual workers to obtain processing of their disputes under the Act, though logically this represented the loss of an important business for unions. Unions were apparently happy to rid themselves of this legitimate union business because in the prevailing circumstances, this business imposed a serious cost factor for the unions. When there were sensitive instances of dismissals, unions preferred an exaggerated response of protest action such as a strike. A strike action in protest against the dismissal of individual workers represents something out of proportion to the magnitude of the issue and is resorted to often only because the present statutory system is found to be frustrating. Unions will also be strengthened by removing this issue from the purview of statutes and making a statutory grievance machinery handle this type of issues.

CHAPTER VI

SYSTEMS AND PROCEDURES IN INDUSTRIAL RELATIONS

Having dealt with the organizational factors and issues in industrial relations, the third area of investigation outlined by the Study Group was the "Systems and Procedures" in industrial relations.

If industrial relations are envisaged as active promotion of creative responsibilities among all the participants in industrial relations, the first requirement has to be the devising of systems and procedures that are first of all easily perceivable and, secondly, workable by the largest number of persons among the constituents in industrial relations. In other words, the systems and procedures of industrial relations have to be such that their objective fairness, simplicity and perceivability, and their workability should be all there. Whether management or labour, both should be in a position to feel capable of making full use of the systems and procedures to process their respective interest claims against each other in a civilised manner. Only such systems and procedures can promote among the largest mass of people in industrial relations a commitment to civilised methods. If the aim of industrial relations is to transfer the conflict and contest from the arena of the barricades to the bargaining table, the bargaining table should be made a more attractive and worthwhile position than the barricades.

On the basis of the above criteria, it is possible to evaluate the character and quality of the existing systems and procedures of industrial relations at various levels along with the impact of such systems on all the three areas of industrial relations, viz. institutional growth, issues and the systems themselves.

Law and legislation represent the foundation from which the present systems and procedures flow to deal with problems of industrial relations. Arising out of such statutory foundations, a series of systems and procedures at various levels have been elaborately devised. The Labour Administration, conciliation, arbitration, Secretarial offices, ante-cham-

bers of ministers and politicians, have become the areas in which the present systems and procedures are found to be workable. Very little of creative industrial relations can take place within the precincts of factories or industries. Because of this fact, the large mass of workers and management personnel, who are directly and deeply involved in the industrial relations process, have very inadequate perception of realities because they can see very little happening at their own perceivable levels. Whatever may be happening about their problems, are being processed at levels outside their participation and therefore outside their perception. There is a remoteness about the systems and procedures that breeds legends, suspicions, doubts and misconceptions. A considerable amount of frustration has emerged on account of the esoteric nature of the present systems and their mysteries to the large mass of participants in industrial relations. It is inevitable that under such circumstances there will be outbursts of revolt not necessarily over the grievances on any particular issue, but against the entire system itself. Or else, resentment is expressed through a process of silent revolt in low morale, apathy in work, surliness, absenteeism, not giving one's creative best and such "underground" methods of protest.

The present complex and elaborate systems with statutes as the foundation, seem to have been designed on the basis of ambivalence and uncertainty about the nature of human factor in industrial relations. This ambivalence and caution is understandable in a political and sociological context immediately after Independence. After two decades, the entire society has gone through various stresses and strains. Though these stresses and strains have created many problems, a strong streak of national purposes and desire for creative achievements have certainly emerged. The best dividends of the vast reservoir of creative talents existing in the country cannot be obtained unless systems and procedures are so designed as to make creative purposes and activities triumph over anarchic and irresponsible trends.

The systems and procedures should represent the basic "rules of the game" to be followed by all the participants. This is an area that has to be firmly prescriptive and enfor-

ceable. Prescribing the rules of the game and supervising that such rules are strictly and honestly observed by all the constituents can be the major role for the State. While this can be done by statutes, enforcement of the rules should be in the hands of an autonomous instrument such as a National Labour Relations Board constituted for that purpose.

The rules of the game consist of such factors as prescribing what constitute unfair labour practices by employers and labour, enforcing representative union and management to bargain in good faith, determining the criteria for sole bargaining agency, areas of bargaining, levels of bargaining and issues of bargaining at appropriate levels. Setting up of a Grievance Machinery is also a part of this process. After doing all these, the substantive issues should be preferably left to the parties themselves to settle, with sanctity for the settlements so arrived at.

The amendment of the Trade Unions Act of 1926 in the areas suggested will represent an improvement in the present systems and procedures. The suggestion to separate the Registrar of Trade Unions' office from the Labour Commissioner's office made in Ceylon is worthy of consideration in Indian conditions as well. Union subscription should be raised to a minimum of Re. 1/- per month. Serious consideration should be given to the problem of outsiders (honorary members) in unions, taking the pros and cons. While doing so, it may be remembered that the dominant leadership role of non-worker outsiders in unions is relevant only in the context of the present situation of statutory predominance in the treatment of issues. This issue of outsider leadership assumes much more manageable dimensions if there develops a greater role for managements and labour in resolution of industrial relations issues under collective bargaining.

As part and parcel of devising the rules of the game for collective bargaining, representative unionism as the sole collective bargaining agent has to be provided for. The instrument of sole bargaining will be the representative union of the choice of workers freely and consciously made. A decision on this question poses one of the biggest problems. This question has been debated extensively. What consti-

tutes effective and representative choice by workers? Two members of the Study Group representing the well-known point of view of the I.N.T.U.C. strongly felt that membership should be the basic criterion in deciding representative unionism and not the method of secret ballot. The I.N.T.U.C. point of view was strongly supported by a senior Labour Administrator, and a retired President of an Industrial Tribunal. All other trade union groups as well as members of the Study Group were in favour of the secret ballot criterion for deciding the sole bargaining agent for collective bargaining.

The debate between membership criterion and secret ballot criterion for sole bargaining agency has assumed sharper sensitivity in the context of poor quality unionism, which necessitates borrowed strength and bolstering up from sources outside of the rank-and-file. The sharp contrast that is in existence between the membership criterion and secret ballot criterion will have faded if higher quality norms for trade unions existed. Under better quality norms, there will be a greater approximation of accuracy between the membership test and secret ballot test. Because this is not so today, the votaries of the respective criterion hold strongly to their positions.

With the existing norms of union organization, membership, accountability, performance etc., being so inadequate, membership criterion has very poor significance in reflecting what is termed as the "conscious choice of the worker." Very often the membership of a union for a worker represents an opportunistic choice by him and often he treats it so, for various reasons. In numerous industries where rival unionism is intensive, there is multiple membership. Membership does not impose any obligations of performance on the worker, nor any acceptance of responsibility. Wherever membership of a union is a conscious and committed choice, such a union need never fear the secret ballot test as well.

Another question that is extensively debated is : Should the choice by secret ballot be made available to all workers, or only to union members. On this question too there are

differences of view among interviewees as well as among a few members of the Study Group. This question can only be answered in the context of the purposes of a sole bargaining agency. The envisaged purpose of a recognized union is to make it the sole bargaining agency on behalf of all workers, with the obligation on such a representative union to perform on behalf of all the workers. A union not elected with the participation of all workers cannot legitimately be expected to assume responsibilities on behalf of those workers who were denied exercise of their conscious choice. This defeats the very purpose of representative unionism. If it is decided to opt for the secret ballot criterion, all permanent workers in the establishment should have the right of participation in an election.

Initiation of systems and procedures for collective bargaining is thus an integrated process, and one particular system or procedure cannot be viewed in isolation.

Thus an integrated approach would consist of the following stages :

1. Ensuring quality unionism by imparting quality prescriptions in the Indian Trade Unions Act of 1926.
2. Statutory prescription of unfair labour practices by both employers and labour and statutory sanctions against such unfair labour practices.
3. Promotion of collective bargaining by creation of a representative sole bargaining agency, and insistence on bargaining in good faith between the employer and the sole bargaining agency.
4. Creation of grievance procedure.
5. Providing for levels of bargaining (area-industrial, occupational, plant-wise etc.) and issues relevant to each area.
6. Making available various types of services to the parties such as educational, research, mediation, conciliation, arbitration not necessarily under statutes, but as real service, to complement what the parties are able to do by themselves when the parties want such services.

The two members of the Study Group opting for the membership test for representative unionism have expressed their disagreement with the views of the other members of the Study Group on their preference for the secret ballot. In their view, the secret ballot test will have very disturbing consequences in that demogogy and false promises will influence the conscious choice of workers. In the view of the two members, workers in this country are not yet developed enough to make a rational choice of what is objectively good and creative when confronted with demagogic slogans and rousing of emotional sentiments over any given industrial issue which can be whipped up. They also pointed out that the analogy of political choice through adult franchise cannot be applicable in industrial relations. It was further pointed out by them that a worker who has been a member paying regular monthly subscriptions is deemed to have made his choice more categorically than under the influences of demagogic oratory that will be fleeting.

As against these persuasive and sincere arguments, most of members of the Study Group still preferred the ballot system for the following reasons. The fear generated about the susceptibility of workers to demagogic slogans in elections is not an adequate argument against ballot method, because this suffers from the same perspectives about the character of the present manpower we have. If the qualities of manpower among labour ranks are so inferior, it would be absurd to expect creative performance or creative development from their participation at any time. Secondly, the argument represents a defeatist attitude by those who stand for responsibility, constructive endeavours etc., in any confrontation with those who are alleged to represent irresponsible demogogy. Those claiming to be responsible and constructive trade unionists should not only have faith in their philosophy but more so in their capacity to successfully permeate their philosophy among the large mass of workers in a free play of competition in an election campaign. Responsible behaviour cannot be promoted through puritanic protections. Since performance is the basic core of criteria in deciding representative unionism, the ballot test seems to be the most logical method that offers greatest scope for the performance of contracts. The ballot test has no worse factors than the membership, but many better factors to recom-

mend for it. If majority membership of a union has been obtained on the basis of genuine service to the workers and workers realise this, such a union has sound base and need not at all be afraid of the loyalties of its membership being polluted by demagogic campaigns. When unions having majority membership display a fear to go through the secret ballot test, they display serious doubts within themselves about their capacity to command real following and their own self-sufficiency. It is difficult to understand how such unions could deliver the goods in industrial relations. On their behalf some other powerful agency will have to be there to bolster up performance. This will be untenable position for collective bargaining. If an irresponsible union becomes the sole bargaining agent, unless it gets exposed over a period of time before its own constituents about the implications of its irresponsibility, the constituents could never get enlightened about responsible choices. On all counts, these members of the study group prefer the secret ballot system.

There is however complete agreement within the Study Group on the need for a sole bargaining agent under collective bargaining.

After giving representative rights to unions under the ballot test, the question that arises is on recognition. Should union recognition be compulsory under the statutes? Compulsory recognition of the representative union is not the real issue. What is important is that bargaining in good faith should be made compulsory between the employer and the representative union decided by the secret ballot or appropriate criteria of any other type. If bargaining in good faith is made compulsory, recognition of the union becomes implicit and need not be statutorily spelt out. For such questions as the formal conferring of recognition, union security provisions such as check-off should all become themselves matters of collective bargaining and not stipulated by law.

The absence of statutory provisions even now concerning recognition of unions, has not prevented industrial relations being carried on through various machineries provided under the law. The collective bargaining process makes it difficult for managements to be recalcitrant about recognising a

genuinely representative union when bargaining in good faith is compulsory. Getting recognition and union security provisions through the bargaining process instead of through law enables the union and management to get to know each other directly in collective bargaining and makes the recognition obtained in the bargaining process more spontaneous and meaningful than through the statutory prescription.

Promotion of meaningful collective bargaining between managements and representative unions, and encouraging the growth of organizational instruments for collective bargaining process can represent an important area of role-play for the Government. This role-play will consist of the Government and the Statutes prescribing the general rules of the game that are fair and civilised which the parties must necessarily follow. These rules of the game will be enforceable. But the role of the State will not normally seep over to the levels of resolving the substantive issues of industrial relations. There will be numerous procedural issues that will be emerging at various levels of industrial relations involving the application of the rules of the game. Here there will be a lot of worthwhile "business" for government.

A quasi-judicial body on the lines of the National Labour Relations Board at various levels must be set up by the Government. The National Labour Relations Board will have the power to supervise the holding of elections, hear parties regarding bargaining areas, jurisdictions, take action against unfair labour practices, certifying sole bargaining agency etc. The National Labour Relations Board will be a permanent commission. The present labour administration and judicial machinery which are deeply involved in the substantive issues of industrial relations will be liberated for more creative roles to play and get transformed.

There will be some areas, where the present machineries and systems may still operate. This would be in the unorganizable sweated industries such as Beedi manufacture, construction industry etc. Such industries may have to be regulated through the present systems.

Labour Code has to be uniform throughout the country. This may be difficult of achievement in the present political

composition of the various State Governments. Notwithstanding this, it should be possible to make most of the present State Governments agree to a common labour code on the persuasion of the National Commission on Labour and its findings. The recalcitrant States that do not fall in line with a rational common policy, will soon find that they are lagging very much behind other parts of India in all developmental programme and inevitably will fall in line.

As far as Western region is concerned, in view of the fact that this region is advanced industrially and administratively, there will not be insurmountable difficulties in evolving a common labour code between the Central Government on the one hand and the Governments of Maharashtra, Gujarat and Madhya Pradesh.

It is realised that the comments and recommendations given in this report will raise many questions for clarifications. This has been clearly envisaged by the Chairman of the National Commission. Further consultations between the National Commission and the Study Group will continue even after the presentation of this report.

Sd/ Dr. K.S. Basu (Chairman)
L.C. Joshi (Vice-Chairman)
N.S. Deshpande (Member)
K.N. Divatia (Member)
Dr. Paresh Majumdar (Member)
Mr. Homi Daji (Member)
S.R. Mohan Das (Member-Secretary)

Bombay,
March 1, 1968.

Note on The Question of Recognition of Union

By Shri N. S. Deshpande.

Amongst the people like us Indians who are usually carried away by sentiments such as provincialism, linguism, casteism, one cannot expect that a trade union that will be chosen by secret ballot would be really representing the grievances of its members.

If the representation is given on the basis of voting, it would serve as an incentive for not becoming members of the union and that would be a severe setback to the growth of trade union movement in India and the same will result in creation of poor quality of unionism. In case non-members are given power to vote, that also will result in weakening the trade union movement. If only members are asked to elect their own representative union, then casting the votes by tendering the subscription regularly is decidedly the better form of ballot and election of the representative union. If the representative capacity is to be conferred on the basis of membership, that will help to strengthen the trade unions economically and in other respects so that the trade unions become self-supporting.

In the case of election of representative union by ballot, the trade unions will have no other work than to fight the election for being representative union or maintaining the representative capacity once achieved ; and the real work of trade union i. e., the handling of grievances, or settling the disputes, etc. would be seriously neglected and the very idea of being a sole agent for collective bargaining will not be brought into practice.

As regards criticism that unions who have become legally representative cannot lead their members and sometimes calls given by such unions are not followed by their members, we may say that this would prove the earlier contention that workers and people in general in India are carried away by sentiments and become prey to the ambitions of the political leaders. Many examples may be cited of workers being taken on indefinite strikes not for any industrial disputes or demands but for maintaining the political position of the office-bearers.

It is argued that even the industrialists have started welcoming the election of the representative union by ballot vote. It means that industrialists want to have their unions sponsored by them and under their patronage.

When industrialisation has started in India, it requires peace, stability and security for making the progress. If the trade unions are not stable and are engrossed in fighting the elections to earn the representative character, a sort of unionism will prevail both in the Industry and the Society in general and the same will prove to be a hindrance to the progress of the nation.

Membership criterion for deciding the representative character has an advantage. In this system, the worker conscientiously by making regular payment every month expresses his choice about the union he wants. Therefore it is a sustained, conscientious regular paid vote cast by him in favour of the union every month and is certainly preferable to the secret ballot taken once in two years without any sacrifice on his part. If a man regularly becomes the member, he has to sacrifice and ultimately would be more responsible to his union. So also, union would be forced to remain always a responsible union. The criticism about double membership is met by verification procedure which is at present laid down or could even be improved in order to assess genuine membership of the union.

The Bombay Industrial Relations Act which was enacted in 1946 and which embodies the principle of recognition of a representative union on membership basis has stood the test of time for over 20 years. There are several unions in various important industries which are functioning as representative unions under this Act and which have contributed to progress and peace in those industries and maintained harmonious industrial relations. There are instances under this Act where unions with higher membership have replaced the representative unions, after going through the prescribed procedure under the Act and without disturbing the peace in the industry or units. There

of representative unions under the B. I. R. Act for years. The provisions of the B. I. R. Act are applicable to several industries in Maharashtra, Gujarat and Madhya Pradesh, which are the most industrialised States of India.

Therefore, for the various reasons stated above, the principle of recognition of union on membership basis is preferable to secret ballot.

(Sd.) N. S. Deshpande

Bombay, 10th April, 1968.

